

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

APPALACHIAN POWER COMPANY
Employer

and

Case 11-RC-006654

INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS LOCAL
UNION 978

Petitioner

DECISION ON REVIEW AND ORDER

On December 29, 2006, the Acting Regional Director for Region 11 issued a Decision and Direction of Election. She found that the petitioned-for unit of distribution dispatchers at the Employer's distribution dispatch center in Roanoke, Virginia was appropriate for collective bargaining.

Thereafter, in accordance with Section 102.67 of the National Labor Relations Board's Rules and Regulations, the Employer filed a timely request for review. The Employer contends that the dispatchers are statutory supervisors, and thus do not comprise an appropriate unit. On April 11, 2007, the Board granted the Employer's request for review solely with respect to whether the dispatchers are supervisors within the meaning of Section 2(11) of the Act,

and denying review in all other respects. The Employer filed a brief on review.

Having carefully reviewed the entire record, including the brief on review, we have decided to affirm the Acting Regional Director's decision.¹

ORDER

The Acting Regional Director's Decision and Direction of Election is affirmed. This proceeding is remanded to the Regional Director for further appropriate action consistent with this Decision on Review and Order.

Dated, Washington, D.C., December 30, 2011.

Mark Gaston Pearce, Chairman

Craig Becker, Member

Brian E. Hayes, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

¹ We agree with the Acting Regional Director that under the standard for supervisory status set forth in *Oakwood Healthcare, Inc.*, 348 NLRB 686 (2006), the dispatchers are not statutory supervisors. See also *Entergy Mississippi, Inc.*, 357 NLRB No. 178 (2011). Thus, we find it unnecessary to rely on the Acting Regional Director's discussion of *Mississippi Power & Light Co.*, 328 NLRB 965 (1999).

Although Member Hayes dissented in *Entergy*, he finds that the facts of this case are distinguishable. Unlike in *Entergy*, he finds that the record here contains insufficient evidence that the dispatchers are held accountable for their oversight and judgment when directing the line servicers. On that basis, he agrees with his colleagues and the Acting Regional Director that the dispatchers are not statutory supervisors.